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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,595	07/28/2003	Harvey P. Clark	18405-00002	4638

7590

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT PAPER NUMBER

3711

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/628,595

**Applicant(s)**

CLARK, HARVEY P.

**Examiner**

Michael Chambers

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

RP

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 recites the limitation "the six stand" in line 1. There is insufficient antecedent basis for this limitation in the claim. (It is assumed this is a typo and it was intended to be "the said stand". Correction is required.)

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

GV  
6/25/07  
Claims 1-5,8,10-1<sup>3</sup> and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by De Vos. De Vos discloses a frame defining an opening a flexible member secured to the frame to close the opening sufficiently to capture a ball and a structure dividing the frame opening into a number of contiguous ball-receiving areas. (fig 1).

As to claim 2 : De Vos discloses a net (fig 1, item 12).

As to claim 3 : De Vos discloses two vertical and horizontal members (fig 1, item 11,11b,11c,17a).

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As to claim 4 : De Vos discloses a ball-receiving areas that are substantially the same size (fig 2).

As to claim 5 : De Vos discloses means for creating ball receiving pockets toward the bottom of each area (fig 1, un-numbered area around item 15).

As to claim 8 : De Vos discloses a number of interfitting frame pieces (fig 1, un-numbered corner and tee pieces, 2:64-66).

As to claims 10 and 11 : De Vos discloses an angled stand (fig 1,2, item 11).

As to claim 12 : De Vos discloses an angle less than 45 degrees (fig 1, item 12).

As to claim 13 : De Vos discloses a rectangular frame (fig 1).

As to claim 14 : See claim 1 rejection.

Also,

Claims 1-7 and are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenbaum. Rosenbaum discloses a frame defining an opening (90) ,a flexible member secured to the frame to close the opening sufficiently to capture a ball (25) and a structure dividing the frame opening into a number of contiguous ball-receiving areas. (fig 1).

As to claim 2 : Rosenbaum discloses a net (fig 1, item 25).

As to claim 3 : Rosenbaum discloses two vertical and horizontal members (fig 1, item 5,7,9).

As to claim 4 : Rosenbaum discloses a ball-receiving areas that are substantially the same size (fig 1).

As to claim 5 : Rosenbaum discloses means for creating ball receiving pockets toward the bottom of each area (fig 1, item 15f).

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As to claims 6 and 7 : Rosenbaum discloses flexible netting strips (fig 1, item 25).

Also,

Claims 1,2,4,5, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by McMurtrie. McMurtrie discloses a frame defining an opening (un-numbered edge piece is considered a frame. Fig 1) ,a flexible member secured to the frame to close the opening sufficiently to capture a ball (un-numbered net pockets) and a structure dividing the frame opening into a number of contiguous ball-receiving areas. (fig 1).

As to claim 2 : McMurtrie discloses a net (fig 1, item 25).

As to claim 4 : McMurtrie discloses a ball-receiving areas that are substantially the same size (fig 1).

As to claim 5 : McMurtrie discloses means for creating ball receiving pockets toward the bottom of each area (fig 1, the ball will rest toward the bottom of each area fig 1).

As to claim 9 : McMurtrie discloses nine ball receiving areas (fig 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Vos.

De Vos discloses the elements of claim 9, however it fails to disclose nine ball receiving

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areas. The number of ball receiving areas is a matter of design choice. The specification provides no unexpected results in using nine receiving areas. It would have been obvious to one of ordinary skill in the art to have selected an appropriate number of ball receiving areas based on cost and manufacturing options.

Claims 15, 17, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Vos. De Vos discloses the elements of claim 15, however it fails to disclose kicking the ball into the net. The use of various parts of the body to propel a ball towards the net, is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected an alternate method for the player to propel the ball towards the net in order to permit the game to be played by disabled players.

As to claim 17 : See claim 9 rejection. The method claimed would be inherent when using the device of De Vos .

As to claims 18 and 19 : De Vos discloses an angled ground setting frame (fig 1). The method claimed would be inherent when using the device of De Vos .

### ***Allowable Subject Matter***

Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Michael Chambers  
Examiner  
Art Unit 3711

June 25, 2004

  
GREGORY VIDOVICH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700